
SCC Communications Corp. and Illinois Bell)
Telephone Company)
)
Petition of SCC Communications Corp.)
For Review of an Arbitrated)
Interconnection Agreement)

Docket No. 01-0308
CLERK'S OFFICE

**AMERITECH ILLINOIS' VERIFIED MOTION TO
STRIKE COMMENTS OF SCC COMMUNICATIONS CORP.**

SCC Communications Corp. ("SCC") has asked the Commission to review two different interconnection agreements between SCC and Illinois Bell Telephone Company ("Ameritech Illinois"). The first was filed unilaterally by SCC, without having been seen by Ameritech Illinois beforehand. The second was filed jointly by the parties, has since been executed by both parties, and, as the parties together informed the Commission, is what both parties believe is in fact the parties' interconnection agreement, subject to approval or rejection by the Commission.

Obviously, the Commission should not review both agreements. Just as obviously, the agreement that the Commission should review is the second one – the one that the parties submitted jointly as their agreement and that superseded the one that SCC filed unilaterally and that is *not* the parties' agreement. Oddly, though, SCC has now filed Comments urging the Commission to approve the wrong agreement – the one that SCC filed unilaterally before the parties had arrived at an agreement to submit jointly. SCC's Comments should be stricken, for the simple reason that the Commission should not review the agreement they address.

Ameritech Illinois further states as follows in support of its motion to strike the Comments of SCC Communications Corp.:

1. On March 21, 2001, the Commission issued its Arbitration Decision in Docket 00-0769, an arbitration between SCC and Ameritech Illinois pursuant to section 252(b) of the Telecommunications Act of 1996 ("1996 Act"). The Arbitration Decision directed the parties to file within 15 days of the date of service, *i.e.*, by April 9, 2001, an interconnection agreement conforming with the award for the Commission to review pursuant to section 252(e) of the 1996 Act.

2. On April 9, 2001, Ameritech Illinois filed a motion in Docket 00-0769 requesting an extension of two weeks, until April 23, 2001, for the filing of the conforming agreement.

3. Also on April 9, 2001, SCC filed with the Commission the Petition of SCC Communications Corp. for Review of an Arbitrated Interconnection Agreement ("SCC's Petition for Review"), attached to which was the proposed interconnection agreement for which SCC sought the Commission's review. That agreement was prepared by SCC alone and was filed unilaterally by SCC without having been shown to Ameritech Illinois beforehand.

4. Upon the filing of SCC's Petition for Review, the Commission opened this docket.

5. Meanwhile, the parties worked together to arrive at an interconnection agreement to submit jointly to the Commission, and, on April 23, 2001, the parties together filed in this docket an interconnection agreement for the Commission's review. Shortly thereafter, both parties executed the agreement they had jointly filed. (See signature page, attached.)

6. Along with their interconnection agreement, the parties filed on April 23 a Joint Petition for Review of an Arbitrated Interconnection Agreement (the "Joint Petition"). In the Joint Petition, the parties together informed the Commission (at ¶ 6) that the agreement they were submitting consisted of (a) terms and conditions on which the parties agreed without the aid

of arbitration, and (b) terms and conditions that the parties believe faithfully reflect the Commission's determinations in the Arbitration Decision. And the parties together requested the Commission (at ¶ 7) to review their attached interconnection agreement pursuant to section 252(e) of the 1996 Act.

7. As a matter of basic common sense, the Commission should review the agreement that the parties submitted jointly on April 23, and should not review the agreement that SCC submitted unilaterally on April 9. Certainly, the Commission should not review both agreements. To do so would not only be a singular waste of Commission resources, but also would create the nightmare possibility of *both* agreements being approved. And as between the two, it could hardly be more obvious which one the Commission should review: the one that the parties *agree* is their agreement and signed; not the one that SCC unilaterally offered and that is not in fact the parties' agreement.¹

9. Nonetheless, SCC, on April 24, 2001 – the day after joining with Ameritech Illinois in filing the agreement that the Commission should review – filed Comments advocating approval of the agreement SCC submitted unilaterally on April 9. This was a bizarre step. It is as if SCC had the Comments ready in case the parties failed to arrive at a joint submission, and then decided to go ahead and file them after the parties made their joint submission, even though

¹ A strong case can be made that the Petition for Review that SCC filed on April 9 was subject to dismissal even before the parties filed their Joint Petition on April 23. After the section 252(b) arbitration between MCI and Ameritech Illinois in 1996, MCI unilaterally submitted for Commission review an interconnection agreement that omitted terms that Ameritech Illinois believed it should include. "Ameritech," as the Commission explained in a subsequent Order, "ask[ed] for the Commission to dismiss MCI's request for approval of the agreement because the language was submitted unilaterally by MCI and the language was never 'adopted' by the parties as an agreement." *Illinois Bell Tel. Co. (Ameritech Illinois) and MCIMETRO Access Transmission Services, Inc. Proposed Arbitrated Agreement*, Docket 97 AA-002, Order (April 28, 1997), at p. 10. The Commission found another way out of the conundrum created by MCI's unilateral filing, and so did not have to decide the merits of Ameritech Illinois' argument that the 1996 Act does not provide for state commission review of interconnection "agreements" filed unilaterally by one party. The Commission did say, though, that it "finds some substance to the argument." *Id.* Here, too, there is no need for the Commission to decide whether SCC's unilateral Petition for Review was or was not proper at the time it was filed, because subsequent developments (*i.e.*, the filing of the Joint Petition) make it so clear that the Commission should not review the agreement that SCC unilaterally submitted.

it no longer made any sense to do so. Indeed, SCC's Comments do not even mention the crucially important April 23 joint filing. Rather, they are yet one more replay of SCC's tale of Ameritech Illinois' alleged "refusal to cooperate with SCC" and alleged "deliberate[] undermin[ing of] the pro-competitive underpinnings of the Act." (SCC Comments at 6.) SCC's rhetoric is overblown. The fact is that the Arbitration Decision was served on March 23, and the parties jointly filed their jointly prepared interconnection agreement just one month later. Ameritech Illinois apologizes for its inability to meet the fifteen-day deadline established in the Arbitration Decision, and recognizes that it should have been quicker to respond to the demands imposed by that deadline. But SCC's attempt to portray innocent tardiness that resulted in a (hardly unusual) two-week delay as a sinister attempt to fend off competition is, at this point, simply unseemly.

10. More to the point, however, SCC's Comments should be stricken because they are directed at the wrong interconnection agreement. Under section 252(e) of the Telecommunications Act of 1996, the Commission is to review agreements "*adopted* by negotiation" (§ 252(e)(2)(A)) or "*adopted* by arbitration" (§ 252(e)(2)(B)). (Emphases added.) Here, there is only one agreement that has been "adopted" – the one that the parties adopted and jointly submitted to the Commission and asked the Commission to review on April 23, 2001, and signed shortly thereafter. Accordingly, the Commission should not review the agreement that

SCC filed on April 9, and SCC's Comments, which are directed at that document, should be stricken.

WHEREFORE, Ameritech Illinois urges the Commission to strike the Comments of SCC Communications Corp.

Respectfully submitted,

AMERITECH ILLINOIS

By:



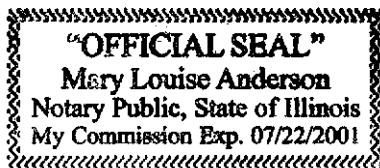
One of its Attorneys

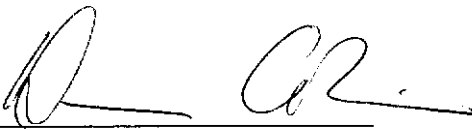
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VERIFICATION

I, Dennis G. Friedman, verify under oath that all assertions of fact in the foregoing Ameritech Illinois' Verified Motion to Strike Comments of SCC Communications Corp. are true to the best of my knowledge and information.




Dennis G. Friedman



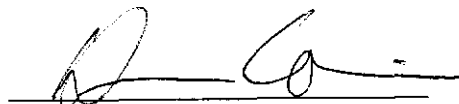
CERTIFICATE OF SERVICE

I certify that I caused copies of the foregoing to be served on this 25th day of April, 2001,
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